

**ZB# 03-40**

**Highview Estates**

**32-1-23.2**

ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR  
555 UNION AVENUE  
NEW WINDSOR, N.Y. 12553  
*Granted 10-27-03*

ZBA #03-40 HIGHVIEW ESTATES - USE  
KINGS ROAD & RT. 207 (32-1-23.2)

914-447-0235

**OFFICE OF THE BUILDING INSPECTOR  
TOWN OF NEW WINDSOR  
ORANGE COUNTY, NEW YORK**

**NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION**

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 563-4615 TO  
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

**DATE: May 8, 2003**

**APPLICANT: Highview Estates of Orange  
PO Box 288  
Salisbury Mills, NY 12577**

**PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: May 6, 2003**

**FOR : Robert Biagini, Highview Estates of Orange**

**LOCATED AT: Kings Drive & Rt 207**

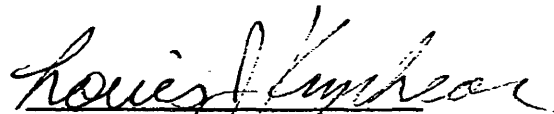
**ZONE: OLI Sec/Blk/ Lot: 32-1-23.2**

**DESCRIPTION OF EXISTING SITE: Vacant Land**

**IS DISAPPROVED ON THE FOLLOWING GROUNDS: 48-12 use/Bulk Table OLI**

- 1. A use variance is required to permit a single family dwelling in the office and light industry zone.**

**COPY**

  
**BUILDING INSPECTOR**

PERMITTED

PROPOSED OR  
AVAILABLE:

VARIANCE  
REQUEST:

ZONE: OLI    USE:

**Single Family Dwelling**

**Single Family Dwelling**

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

*Use Variance*  
*10-27-03*  
**APPROVED**

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS  
IMPORTANT  
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

## ZONING BOARD

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

RECEIVED

MAY 06 2003

BUILDING DEPARTMENT

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and under slab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

FOR OFFICE USE ONLY:  
Building Permit #: PA 2003-0456

**AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS  
REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED**

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises HIGH VIEW ESTATES OF Orange  
Address PO BOX 286 Phone # 914-447-0235  
Mailing Address SALISBURY Mills NY Fax #  
Name of Architect Brian J. Sherman  
Address 70 Station Rd. Phone 496-6833  
Name of Contractor same

Address \_\_\_\_\_ Phone \_\_\_\_\_

State whether applicant is owner, lessee, agent, architect, engineer or builder \_\_\_\_\_

If applicant is a corporation, signature of duly authorized officer \_\_\_\_\_

(Name and title of corporate officer)

1. On what street is property located? On the Kings Hill Rd side of \_\_\_\_\_  
(N, S, E or W)  
and \_\_\_\_\_ feet from the intersection of \_\_\_\_\_

2. Zone or use district in which premises are situated \_\_\_\_\_ Is property a flood zone? Y \_\_\_\_\_ N \_\_\_\_\_

3. Tax Map Description: Section 32 Block 1 Lot 23.2

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy \_\_\_\_\_ b. Intended use and occupancy \_\_\_\_\_

5. Nature of work (check if applicable) ☒ New Bldg. ☐ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☐ Other

6. Is this a corner lot? Yes

7. Dimensions of entire new construction. Front 48' Rear 48 Depth 32 Height 16' No. of stories 2

8. If dwelling, number of dwelling units: 1 Number of dwelling units on each floor 1

Number of bedrooms 4 Baths 3 Toilets 3 Heating Plant: Gas \_\_\_\_\_ Oil X  
Electric/Hot Air \_\_\_\_\_ Hot Water \_\_\_\_\_ If Garage, number of cars 2

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use Sing Family  
Dwelling

10. Estimated cost \$120 00

Fee

50.00

OK # 4206

**PAID**

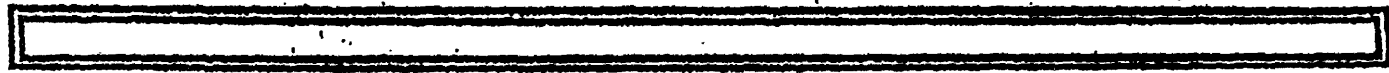
**ZONING BOARD**

516103  
date

**APPLICATION FOR BUILDING PERMIT**  
**TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK**  
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock  
Asst. Inspectors: Frank Liel & Louis Kryshner  
New Windsor Town Hall  
555 Union Avenue  
New Windsor, New York 12553  
(845) 563-4818  
(845) 563-4895 FAX

Bldg Insp Examined \_\_\_\_\_  
Fire Insp Examined \_\_\_\_\_  
Approved \_\_\_\_\_  
Disapproved \_\_\_\_\_  
Permit No. \_\_\_\_\_



**INSTRUCTIONS**

- A. This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

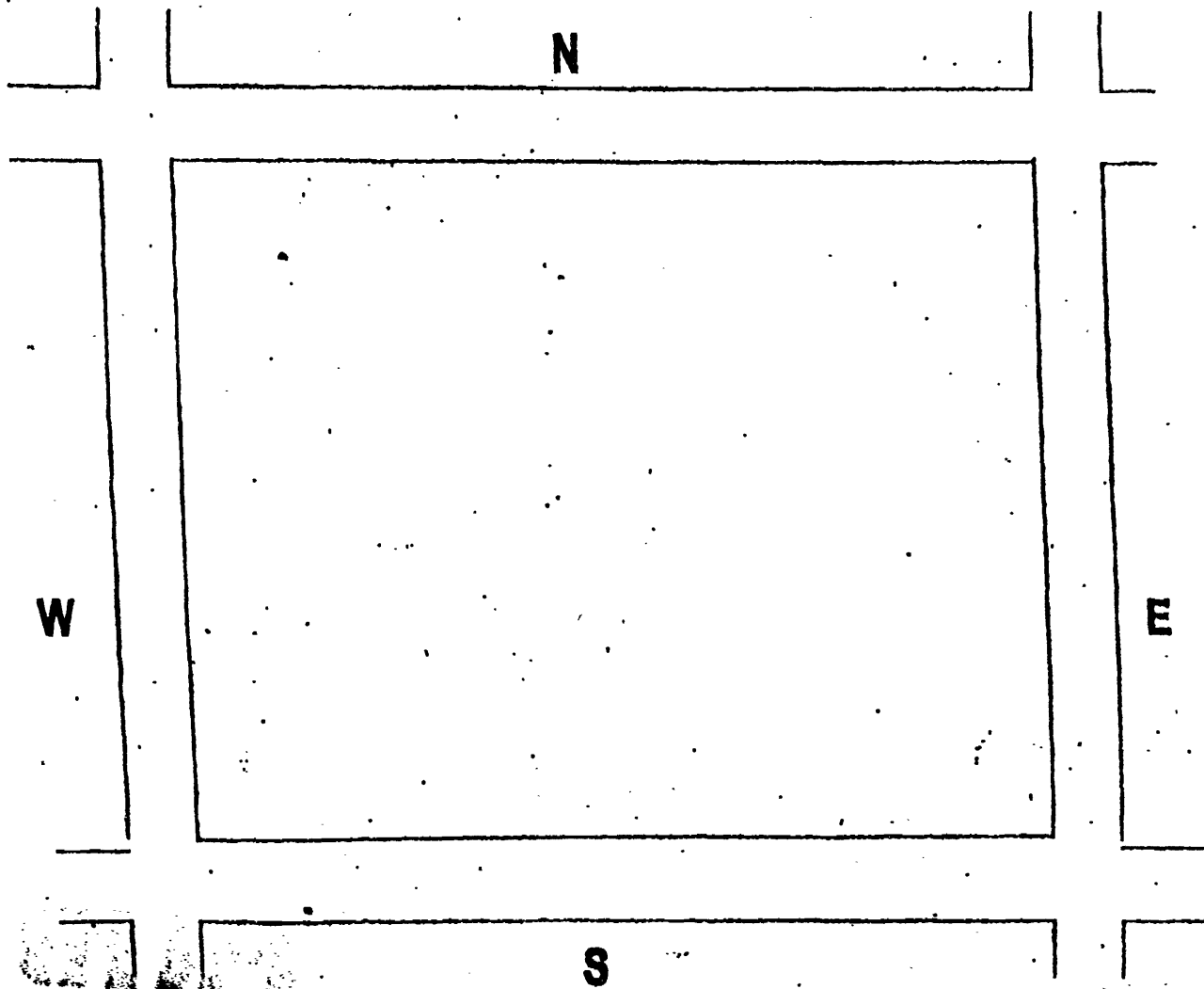
THOMAS J. BROWN  
(Signature of Applicant) (Address of Applicant)

THOMAS J. BROWN  
(Owner's Signature) (Owner's Address)



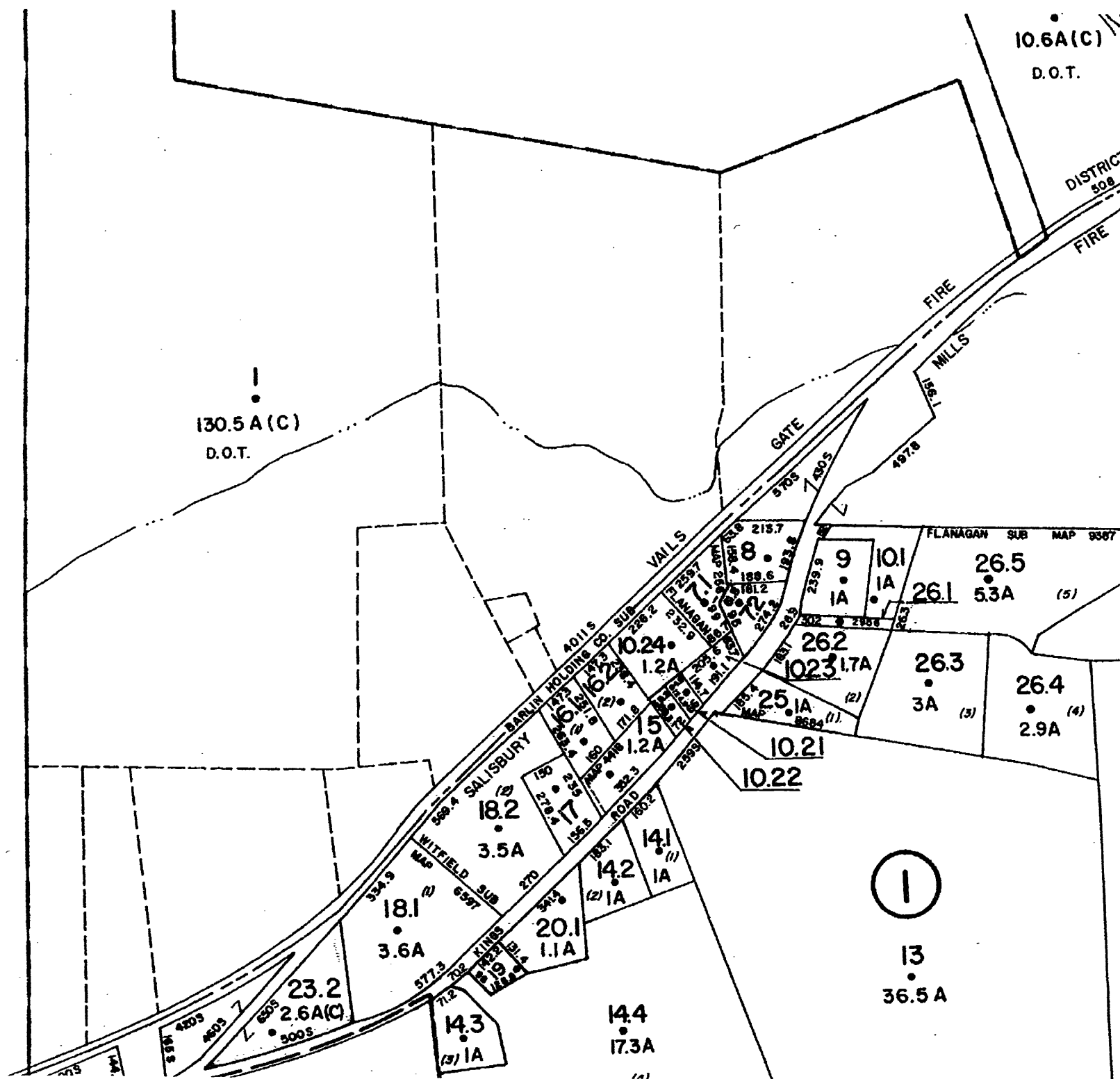
**NOTE:**

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



DISTRICT  
508  
FIRE

SECTION 29









# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4695

## OFFICE OF THE ZONING BOARD OF APPEALS

January 8, 2003

Highview Estates of O.C.  
P.O. Box 286  
Salisbury Mills, NY 12577

ATTENTION: ROBERT BIAGINI

SUBJECT: REQUEST FOR VARIANCE #03-40

Dear Mr. Biagini:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

---

Myra Mason, Secretary to the  
NEW WINDSOR ZONING BOARD

MLM:mlm

cc: Michael Babcock, Building Inspector

In the Matter of the Application of  
**HIGHVIEW ESTATES OF O.C., INC.**

MEMORANDUM OF  
DECISION GRANTING

USE

CASE #03-40

**WHEREAS, Robert Biagini**, owner(s) of 32-1-23.2 on Rt. 207, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Use Variance to permit single family dwelling in an OLI Zone; and

**WHEREAS**, a public hearing was held on September 8, 2003 and continued on October 27, 2003 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared on behalf of this Application with Steven Rieneke, Esq., Daniel Yanosh, L.S., and Jessie Stern, Real Estate Agent; and

**WHEREAS**, there were two spectators appearing at the first public hearing; and

**WHEREAS**, neither spectator had any opposition to the application, but, merely had some questions which were answered by the Board and the Applicant.

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.
2. The Evidence presented by the Applicant showed that:
  - (a) The property is a vacant piece of property located in a residential neighborhood, although the property is zoned for commercial use only. The applicant seeks permission to build a residence on the property.
  - (b) A short form EAF was filed by the applicant with the application and there does not appear to be any possible SEQRA concerns.

- (c) The applicant agreed that if a variance was granted, he would not build a home larger than 3,000 square feet.
- (d) The property is a peculiarly shaped piece of property on which is located substantial wetlands as designated by the state and federal authorities. In addition, the property is divided by an apparent railroad bed.
- (e) The property is too small to be used for any agricultural or town use permitted in that zone.
- (f) The uses listed under 1B, 1C, 8, 9, 10, 11 and 12 are uses that require three to five acres of property and so this property could not be utilized in those fashions.
- (g) When the road setbacks from Kings Road and State Route 207 are calculated, in addition to the wetlands, only a small triangular portion of this land would actually be available for development.
- (h) Although it is possible to construct a small office building on the premises, such a building would not realize a reasonable return as established by a Real Estate Sales Agent testifying on behalf of the purchaser.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variance(s) requested are substantial in relation to the Town regulations but, nevertheless, are warranted.
4. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but, nevertheless, should be allowed.
6. The benefit to the Applicant, if the requested variance(s) are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law

and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance(s).
9. The interest of justice would be served if the applicant does not build a residential structure larger than 3,000 square feet and the granted of the Use Variance requested is specifically made conditional on that fact.

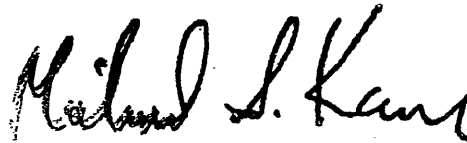
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a Use Variance to permit single family dwelling in an OLI Zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and/or Building Inspector and Applicant.

Dated: October 27, 2003



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Chairman



**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
OFFICE  
845-563-4615**

**MEMORANDUM**

**TO: LARRY REIS, COMPTROLLER**  
**FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD**  
**DATE: NOVEMBER 14, 2003**  
**SUBJECT: ZBA #03-40 ESCROW REFUND**

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 300.50 TO CLOSE OUT  
ESCROW FOR:**

**ZBA FILE #03-40**

**NAME: HIGHVIEW ESTATES OF ORANGE COUNTY, INC.**

**ADDRESS: P.O. BOX 288**

**SALISBURY MILLS, NY 12577**

**THANK YOU,**

**MYRA**

**L.R. 11-14-03**



**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
RECORD OF CHARGES & PAYMENTS**



FILE #03-40      TYPE:USE

APPLICANT:  
HIGHVIEW ESTATES OF O.C.

TELEPHONE:    914-447-0235

RESIDENTIAL:	\$ 50.00	CHECK #
COMMERCIAL	\$ 150.00	CHECK #4291
INTERPRETATION	\$ 150.00	CHECK #

ESCROW:            COMMERCIAL \$500.00            CHECK #4292

\*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

<u>DISBURSEMENTS:</u>		<u>MINUTES</u> <u>\$4.50 / PAGE</u>	<u>ATTORNEY</u> <u>FEE</u>
PRELIMINARY:	<u>4</u> PAGES	\$ <u>18.00</u>	\$ <u>35.00</u>
2 <sup>ND</sup> PRELIMINARY:	<u>9</u> PAGES	\$ <u>40.50</u>	\$ <u>35.00</u>
PUBLIC HEARING:	<u>8</u> PAGES	\$ <u>36.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	<u>  </u> PAGES	\$ <u>      </u>	\$ <u>      </u>
	TOTAL:	\$ <u><u>94.50</u></u>	\$ <u><u>105.00</u></u>

\*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

ESCROW POSTED:            \$ 500.00  
LESS: DISBURSEMENTS:    \$ 199.50

AMOUNT DUE:              \$       

REFUND DUE:              \$ 300.50

L.R. 11-14-03



RESULTS OF Z.B.A. MEETING OF: October 2, 2003

PROJECT: Highview Estates ZBA # 03-40  
P.B.# \_\_\_\_\_



USE VARIANCE: NEED: EAF PROXY

LEAD AGENCY: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
MINUTA \_\_\_\_\_  
KANE \_\_\_\_\_

NEGATIVE DEC: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
MINUTA \_\_\_\_\_  
KANE \_\_\_\_\_

PUBLIC HEARING: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
MINUTA \_\_\_\_\_  
KANE \_\_\_\_\_

APPROVED: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
MINUTA \_\_\_\_\_  
KANE \_\_\_\_\_

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_  
REIS \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
MINUTA \_\_\_\_\_  
KANE \_\_\_\_\_

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES \_\_\_\_\_

VARIANCE APPROVED: M) RS S) ML VOTE: A 5 N \_\_\_\_\_

RIVERA A  
MC DONALD A  
REIS A  
MINUTA A  
KANE A

CARRIED: Y ✓ N \_\_\_\_\_

Jessie Stern - Weichert Realtors - Spoke

Dan Yanush, L.S. - Spoke

Steven Reinke, Atty - Spoke

PUBLIC HEARINGS:

HIGHVIEW ESTATES OF O.C. (#03-40)

MR. KANE: This is a continuation of a prior public hearing. Request for use variance to permit single family dwelling at Route 207 & Kings Road in an OLI zone.

Stephen Reineke, Esq. appeared before the board for this proposal.

MR. REINEKE: While the rest of the group is signing in, my name is Steve Reineke. I'm the attorney for the applicant. With me here we have a principle of Highview Estates, Jessie Stern, real estate broker, sales person and Dan Yanosh in the audience who's an engineer surveyor who prepared the maps that we have in case there are any questions on that. What we'd like to do this evening is to present to the board the rationale as to why this variance should be granted. It is a use variance, I understand there were members of the public present.

MS. MASON: Same maps?

MR. REINEKE: These are maps, it's the same property but it illustrates things a little differently. The first map that I will present to the board is the same map of the property identification. On this map are the wetlands which--

MR. KANE: I just need to clear something up with this particular hearing, if the prior hearing we had the public portion of that hearing, we will not be reopening it to the public at this point so just wanted to clarify that for you.

MR. REINEKE: This map shows property, shows the wetlands and in order to comply with the requirements on a use variance, what we did was we showed on this property the available usable area that would come into play for those uses that require the 100 foot setback which are a number of the news uses in the zone. If you look at the word Kings Road, go down below that,

you'll see that we have identified on this particular map all of the uses in the zone that are for all intents and purposes eliminated by the setback. The only usable area for those particular uses with the setbacks that are required is the small triangle, this little one right over here, this area right here, so we feel that that's fairly clear as demonstrating that those uses just are not feasible. We couldn't fit parking and the structure in that location in that limited to location. We have also for the board a second map, again, same property, this one shows the area within the required setbacks that could be used for office space which is probably the only commercial use that you could even consider putting in there. Again, this shows on that same side the usable area. The concern that we have with this which Jessie can speak to if the board needs any followup is that essentially, it would be an office facility with its back to the main commercial highway access off Kings Road and would be an isolated commercial piece in what is primarily now a residential developed area. Mr. Biagini can advise the board under oath if you so desire that the property to the right of where this building would be located is essentially a vacant parcel of land followed by seven residential parcels and then you come back to where it loops back to 207. The area immediately across Kings Road which right now is vacant we obtained a written conformation that that property is the subject of a 49 lot residential subdivision. So we have confirmation for that for the record. So, essentially, what you'd be left with here would be an office facility surrounded by residences accessed off a, basically, you'd have to come in off station, make a left on Kings with no access out to Route 207. You have the limited area there, probably, and Mr. Yanosh can confirm if you want his testimony, probably no other area where the septic can be located other than where it's shown up at that top corner of the usable space, thereby eliminating the expansion of the parking and any increase in the size of the structure. Structure that size I'm told by Mr. Biagini who can verify it for you would probably run about \$100 a foot for construction cost, it would have to meet the handicapped accessible requirements and basically, the difficulty that we're faced with in that is again

trying to lease it in a residential area. You'd have an extremely limited market based upon the surrounding residences, no other commercial uses to draw people into the facility and probably with the access issue that in and of itself would make it extremely difficult. The third map that we have for you is the once again the same property, we didn't get too creative here, multiple maps for the same property, this shows the use for which the variance is requested which is the single family structure, again utilizing the setbacks, development is in that same location, the isolated parcel by the portion opened by the Town of New Windsor remains wet, unusable, the septic field can now be out in that area, there's a larger expansion area. And in the event of any failure and this in effect is a use that based upon the residential development proposed across the street and the series of residential homes to the right which would be to the east would be in keeping with the neighborhood. We feel that this property is truly unique in this particular zone in that it's unfortunately split by a parcel of land that happens to be an abandoned roadbed. A request had been made to the Town to see whether or not it would be abandoned to the property but apparently they were not interested in simply abandoning it, if it was not split, the, obviously, the setbacks could be better located and you could have access and possibly even placement of a commercial structure closer to 207 which might make that more commercially feasible. But as the property presently exists, it truly is unique being divided like that in a commercial zone and the fact that it's a parcel of land that although it has frontage by virtue of the property to the left closer to Station Road, technically, it has frontage on 207, it really has no access out to 207, there's no way to get from 207 to the site where the development could occur. As I stated, the properties to the east are currently residential use. Property across the street is proposed for a residential subdivision, so we certainly feel that this would be in keeping with the neighborhood, a variance allowing residential use on site and the hardship is not self-created. The abandonment of the, actually, the road right-of-way has existed, it's not something that was the result of any action by the applicant. And I

think that outlines from our perspective what we feel is the basis for the request for the variance. As I say, I have the parties here who provided me with that information in case the board wants any verification as to those items from them. I didn't touch on the agricultural uses that are theoretically permitted in there but quite honestly, the parcel's not large enough to make it a viable piece of farmland.

MR. KRIEGER: Which is allowable under the zone.

MR. REINEKE: Before we even get to that--

MR. KRIEGER: I think you've got the cart before the horse, that's the first place to get to if you can't do it legally, who cares whether it's feasible or not.

MR. MINUTA: Let me recap a section of this, on the east side of the lot that's a proposed 49 lot subdivision, is that what I heard?

MR. REINEKE: Across on the southerly side across Kings Road this area down there.

MR. MINUTA: This is in an OLI zone this whole section that's being proposed?

MR. REINEKE: I'm not sure, is the information on that submitted?

MR. BABCOCK: No, the OLI zone.

MR. REINEKE: I think it cuts at the property line.

MR. YANOSH: OLI cuts through.

MR. REINEKE: I knew the engineer was here for a reason. See that?

MR. YANOSH: There's the property there, OLI is probably a little ways into that piece of property and the rest of it is R-1.

MR. MINUTA: Property to the east is currently being used in what capacity?

MR. REINEKE: Currently, the property immediately to the east is vacant. As you continue down, these parcels are developed as single family residences. You have a commercial piece up where Toleman connects, you have the, up here, you have the mini-warehouses and then you do have some commercial when you get further down there, there's the new office building with the access right on 207.

MR. MINUTA: Yes, I'm familiar.

MR. REINEKE: And in between really nothing.

MR. KANE: I think for the record we should have the experts come up and--

MR. KRIEGER: Establish the--

MR. KANE: For the record.

MR. REINEKE: Okay, well, Dan, you're the first one, you're on the plan, so, if you could just verify for the board I'll just ask you a few questions. The first map that we presented to the board showed the hundred foot setbacks, is that the map that's prepared based on that?

MR. YANOSH: Yes.

MR. REINEKE: And can you just point out for the board the limited area that's available for use with the required setback for the multiple uses indicated on that map?

MR. YANOSH: You have a hundred foot setback from Kings Road and a hundred foot back from 207, 50 foot side yard leaves you this small little triangle here which is probably 40 by 70 foot triangle, very small little building could fit into an area, if you used those uses which are the use necessary here, 1B, 1C, 8, 9, 10, 11 and 12 uses are 3, 4, 5 acre uses so it wouldn't go into that use.

MR. REINEKE: And moving to the second map that was



presented to the board, this is the one that has the proposed office building on it that again, just for the record, is this a survey map that you prepared with a proposed location based on the 40 foot setback requirements?

MR. YANOSH: Yes.

MR. REINEKE: And that indicates on it is a proposed professional office building, in your opinion, I know you've done this for years, can that building be expanded to any larger size?

MR. YANOSH: Maybe a little bit, couple feet either way. But the size of it is good for the location. We have to put landscaping around the perimeter and the parking requirements for this size building are about filled up with that. The septic system would have to be in the corner, we can't go any further with parking, this is almost maximizing the use of the property.

MR. REINEKE: And the third map that was presented was the map illustrating the proposed house, is that structure located in compliance with the various setback requirements for residential in that area?

MR. YANOSH: Yes, it is.

MR. REINEKE: Okay.

MR. YANOSH: It has the 45 foot front yard which is off Kings and the abandoned road that goes through and the 40 foot side yard which complies with the zoning.

MR. REINEKE: I would have no other questions of Mr. Yanosh, unless the board has any questions.

MR. KANE: I don't.

MR. MC DONALD: I don't either.

MR. KANE: Okay.

MR. REINEKE: Jessie, if you can come up for a moment.

MR. REINEKE: Jessie, just for the record, we need to ask you a few questions. What's your professional affiliation with respect to real property activities?

MS. STERN: I'm a licensed real estate salesperson affiliated with Weichert Realtors of Monroe selling houses for approximately six years.

MR. REINEKE: Do you, I believe you've had an opportunity to review the properties that were the subject of this application and you heard the surveyor, my explanation as to the locations, can you just advise the board in your opinion as a real estate salesman as to the issues that would be faced in trying to rent map 2, trying to rent map 2, which is a proposed retail professional office building at the particular location?

MS. STERN: I think in my opinion that it would be difficult because as stated before, it's an isolated building with really no other commercial around there. There are houses across the street and all along the side of that, except for the one vacant piece next to it, and there's nothing bringing people to that area there, especially that the visibility pretty much is going to be fronting Kings Road and the main business location is down the ways on Route 207. So I think it would be a difficult hardship to be able to rent that property.

MR. KANE: So you think for the amount that it would take to build the professional building, that they would not make a reasonable return on that money?

MS. STERN: Yes and I think it would take possibly quite a long time to--

MR. KANE: Longer than what you would consider reasonable?

MS. STERN: Longer than I believe a residential home would take to market the property and sell.

MR. KANE: And you saw the property that was out there?

MS. STERN: Yes.

MR. KANE: Do you feel that a single family home better fits that property than an office building?

MS. STERN: I do, yes, I do.

MR. KANE: Gentlemen, any other questions?

MR. REIS: I have none at this time.

MR. MCDONALD: No.

MR. RIVERA: No.

MR. REINEKE: Mr. Biagini, since you're the one who advised me as to the properties to the east, you indicated that there were a number of residences, vacant parcels, if you can just repeat that for the board?

MR. BIAGINI: Effects on this parcel, there's another large vacant piece and then there are seven residential homes on the same side of the road, then goes down to Route 207.

MR. MCDONALD: You have some on 207 that are residential on that side, right, Kings Road, and yeah, there's four or five?

MR. BIAGINI: Coming back the other way, yes.

MR. KANE: Any other questions, gentlemen? Anybody have a motion?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we approve the use variance for Highview Estates of Orange County on Route 207 and Kings Road.

MR. MCDONALD: Second it.

October 27, 2003

31

ROLL CALL

MR. REIS	AYE
MR. MINUTA	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. KANE	AYE

HIGHVIEW ESTATES OF O.C. (#03-40)

Mr. Robert Biagini appeared before the board for this proposal.

MR. KANE: Request for use variance to permit single family dwelling at Route 207 and Kings Road in an OLI zone. Anybody here for this meeting? Just going to ask you to sign your name and address so we have it for the stenographer. When we open it up to the public portion of the meeting, you'll be allowed to ask questions or present your views at that time, actually, just keep it as non-repetitive as possible. Thank you. Okay, sir.

MR. BIAGINI: I'm looking for a variance to construct a single family home in light of industrial building of some sort just figured that a single family home was more suitable for the area and in doing that, I need a use variance. The property is zoned for industrial and some type of storage building or what have you, but I just figured with a new housing development coming across the street that this would be more for a single family home.

MR. KANE: There are five areas that you have to cover under the use variance, are you prepared to address each of those five things?

MR. BIAGINI: Yes.

MR. KANE: Would you do that?

MR. BIAGINI: I had to have it faxed over, it wasn't ready as of 3 o'clock this afternoon, it was confusing the format you gave me on all the stuff that was laid out on it, I just, so I had my attorney fill it out and he was going to fax it over but he didn't get a chance to.

MR. KANE: Okay. What form is he filling out?

MR. BIAGINI: Andy gave me a form, not a form, a letter, the hardships that I have to address.

MR. KANE: So he was going to address those for you?

MR. BIAGINI: That letter's kind of confusing to me as well as other people that I had read it.

MR. KANE: Are you prepared this evening to go forward with this without that in your hand to present to us?

MR. BIAGINI: Sure, I guess.

MR. KANE: You're sure cause we can postpone, you have to address each one of these things, including the financial statement. We can proceed and get everything that we can on the record now and it would be up to you to put a few, ask to put a delay on the vote on it and we can reopen it at a later date so you can get your information. Because if you get turned down here, you've got a delay time before you can reapply, if I have that correct.

MR. BABCOCK: That's correct.

MR. BIAGINI: What's the delay time?

MR. KANE: I believe it's six months. So if you want, we can proceed with the hearing right now and get all the information we can, the public, we can hear from you and hear from them and we can table the motion until you can come back with the proper information if that's agreeable to you, that's your decision.

MR. BIAGINI: Okay.

MR. KANE: So we'll go ahead and proceed and then we'll pick up after the public hearing, I'll open and close

the public hearing tonight, it will not be reopened for the next time but you'll be able to present your statement at that point. I welcome the public to come back at that point. Okay?

MR. BIAGINI: Fine.

MR. KANE: Okay, gentlemen, do you have some questions?

MR. REIS: Mr. Chairman, before we get into questions, I'd like to disclose that I in the past had a business relationship with his family, I've had business with them, although I'm not involved with this at this time, I just want to--

MR. KANE: Do you feel it will impair your ability to make a fair decision?

MR. REIS: No, just bringing it up.

MR. KANE: Thank you. So you want to put a proposed house on this piece of property?

MR. BIAGINI: Yes.

MR. KANE: And since we don't have your statement, it's kind of tough to ask some questions. Let's proceed this way, why don't I open this up for the public right now so we can hear what their concerns are, if they have any questions of you, so you can answer that and we'll proceed from there. So at this point, I'll open it up to the public portion, if you'd like to just stand up, speak clearly, ask whatever questions, state your name and address.

MR. MERCADO: Carlos Mercado, 87 Kings Road. I'm just curious where the house is going to be built?

MR. KANE: Mike will show you the map.

(Discussion was held off the record)

MR. KANE: Was your question answered, sir?

MR. MERCADO: Yes, it was.

MR. KANE: Sir, your name and address for the record?

MR. LIGGIER: Mauricio Liggier, 93 Kings Road.

MR. KANE: And your questions were answered? Just wanted to see where the house was on the property?

MR. LIGGIER: Yes.

MR. KANE: Do you have any comments about a house being built even though it's not zoned for that?

MR. MERCADO: No, we have no problem, we'd rather have a house there than commercial property.

MR. LIGGIER: How big is the house going to be?

MR. BIAGINI: Twenty-eight hundred square feet.

MR. KANE: So we've answered your concerns this evening?

MR. MERCADO: Yes, thank you very much.

MR. KRIEGER: You realize if the board ultimately grants it that will be a condition of their granting it, you can't make it any bigger than that?

MR. BIAGINI: Right.

MR. KRIEGER: That's acceptable, correct?

MR. BIAGINI: Yes.



MR. BABCOCK: Why don't you go 3,000, we're saying 2,860, approximately, so if we went 3,000 square feet, I don't think the board is going to, it's on a 1.66 acre piece of property.

MR. KRIEGER: It will not exceed 3,000?

MR. BIAGINI: No.

MR. KANE: Are we talking what style home, bi-level?

MR. BIAGINI: Colonial.

MR. KANE: What they call colonial nowadays. At this point, I'll close the public portion of the hearing and thank you very much, bring it back to the board. Myra, mailings?

MS. MASON: On August 20, 12 addressed envelopes were mailed out containing the notice of public hearing and I had no responses.

MR. KANE: You've presented an environmental statement to the board?

MR. BIAGINI: Yes.

MR. KANE: You guys read that?

MR. RIVERA: Yes.

MR. KANE: Any questions on the environmental statement?

MR. MC DONALD: No.

MR. KANE: I'll entertain a motion to find a negative declaration on the environmental statement.

MR. MC DONALD: So moved.

MR. REIS: Second it.

MR. KRIEGER: There aren't any other involved agencies so--

MR. MC DONALD: So we're declaring a negative dec. I'll make that motion.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MR. KANE: Okay, sir, if you want at this point we'll ask the board if they would be willing to table this, that's up to you to ask us to do that or we can go to a vote, I'll leave that decision up to you to decide what you want to do.

MR. BIAGINI: Can you vote on it?

MR. KANE: You're sure?

MR. BIAGINI: All right, table it to the 22nd.

MR. KANE: Gentlemen, let me ask one quick question before we talk about this, you won't have a problem also if we limit the amount of building space we'll make it a requirement that it will be no bigger than 3,000 square feet?

MR. BIAGINI: No problem.

MR. REIS: In lieu of the fact that it seems to me that

it is a reasonable use for the property, I'd like to make it very plain and certain that the applicant realizes that he has to prove some hardship here and changing and reversing the zoning, okay, we understand that it's a reasonable use and we'd like to cooperate with you but you've got some issues that you have to bring forth, Bob.

MR. KRIEGER: Let me put it another way, it's not, in this case, it's not up to, solely up to the good will of the board members. There's criteria that have to be met according to the State, they didn't make them up, they didn't make them up here in the Town, they came from the State Legislature, they're an absolute requirement, even if the members of the board here are all in favor of your application, I don't know whether they are or not, it's up to them but even if they were, you'd still have to meet those criteria to pass muster, otherwise if the criteria are not met, then board member might feel that he has to vote against you even though he would otherwise be in favor of your application because of the legal requirements. That's the reason why the chairman extended to you the opportunity to ask that this matter be adjourned to the 22nd so that those criteria could be met with the information that you have requested to assist you that you apparently have not received yet.

MR. KANE: So your decision is to delay the hearing until our next meeting?

MR. BIAGINI: Yes.

MR. MC DONALD: Do you need a motion on that?

MR. KANE: Would you please?

MR. MC DONALD: I'll make a motion that we table this request until the 22nd to the next meeting.

September 8, 2003

28

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. MINUTA	AYE
MR. KANE	AYE

MR. KANE: We'll see you at the next meeting.

TOWN OF NEW WINDSOR ZONING BOARD

PUBLIC HEARING FOR:

Highview Estates -03-40

DATE: September 8, 2003

SIGN-IN SHEET

NAME

ADDRESS

1. Carlos & Zoraida Mercado 87 Kings Road, Rock Tavern, NY 12578
2. MAURIZIO Licgyer 93 KING ROAD
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
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10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
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18. \_\_\_\_\_
19. \_\_\_\_\_
20. \_\_\_\_\_



RESULTS OF Z.B.A. MEETING OF:

September 8, 2003

PROJECT: Highview Estates

ZBA # 03-40  
P.B.#



USE VARIANCE:

NEED: EAF ☒

PROXY

LEAD AGENCY: M)    S)    VOTE: A    N     
RIVERA     
MCDONALD    CARRIED: Y    N     
REIS     
MINUTA     
KANE   

PUBLIC HEARING: M)    S)    VOTE: A    N     
RIVERA     
MCDONALD    CARRIED: Y    N     
REIS     
MINUTA     
KANE   

NEGATIVE DEC: M) Mc S) Ro VOTE: A 5 N 0  
RIVERA     
MCDONALD    CARRIED: Y    N     
REIS     
MINUTA     
KANE   

APPROVED: M)    S)    VOTE: A    N     
RIVERA     
MCDONALD    CARRIED: Y    N     
REIS     
MINUTA     
KANE   

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M)    S)    VOTE: A    N     
RIVERA     
MCDONALD     
REIS    CARRIED: Y    N     
MINUTA     
KANE   

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES   

VARIANCE APPROVED: M)    S)    VOTE: A    N   .

RIVERA A  
MC DONALD A  
REIS A  
MINUTA A  
KANE A

CARRIED: Y    N   .

Carlos Mercado - 87 Kings Rd - Questioned where house  
will be located

Will not exceed 3,000 S.F. house

(M) (Mc) (S) Mi

Tabled

HIGHVIEW ESTATES OF O.C. (#03-40)

Mr. Robert Biagini appeared before the board for this proposal.

MR. KANE: Request for use variance to permit single family dwelling at Route 207 & Kings Road in an OLI zone.

MR. BIAGINI: I want to construct a 48 x 30 single family dwelling on this lot that's located on the corner of Route 207 and Station Road, the lot that runs between 207 and King's Hill Road.

MR. REIS: Use variance.

MR. KANE: Do you currently own the property?

MR. BIAGINI: Yes.

MR. KANE: Do you understand what you have to go through to get a use variance?

MR. BIAGINI: No.

MR. KANE: Extremely difficult. Basically, there's five criteria mandated by the state, couple of them are going to be probably fairly difficult to prove. You, first of all, you have to prove that the property is not sellable for a reasonable return for an existing use which means that you can't sell that property, reasonable return doesn't mean make a profit necessarily. The other thing is that you have to demonstrate that by financial competent financial advice such as realtors that kind of thing. The other is that the, you're not going to alter the essential character of the neighborhood and it's not self-created which would be kind of tough, I think in this situation.

MR. BIAGINI: There's the house next door, there's going to be a housing development which is the Fox Farm

on this side of the road over here that's going to be there.

MR. BABCOCK: Mr. Chairman, if you look at this lot actually an easement that goes through the middle of it that used to be the road and the Town straightened out the road and the road comes straight out to Route 207 which is Station Road. The problem with the property is there's a piece on one side of the road and a piece on the other side of the road, that's where the problem is. And if you look at the front area, both sections are wetlands, see it says Wetlands 1, Wetlands 2, do you have that? That's why we've suggested we drew this on here so this is the wetland, this is a wetland so this piece of property is virtually useless, so this is OLI which is 200 feet back so this entire piece is OLI, follows Kings Road.

MR. KANE: Still you'll have to prepare yourself to address those. We'll give you a sheet and you have to address those questions. And again, you'll need to bring in competent financial advisors. I suggest you get some advice on this in how to attack it. Okay? Mike, any questions?

MR. REIS: Yeah, how long have you owned the property?

MR. BIAGINI: Six months.

MR. KANE: Will you be creating any water hazards or runoffs with the building of the house?

MR. BIAGINI: Not at all.

MR. KANE: You can see that the easement is behind you but you won't be going through any easements?

MR. BIAGINI: No.

MR. KANE: Cutting down any trees or--

MR. BIAGINI: Hardly any trees on the lot and none of



them are in our way.

MR. KANE: House itself, are you going to need any other variances for this house?

MR. BIAGINI: Not at all.

MR. KANE: Steve, any questions?

MR. RIVERA: No.

MR. REIS: Mike, according to the map here is the septic encroaching on the wetlands?

MR. BABCOCK: I'm sure not, the wetlands is in the front.

MR. REIS: Thank you.

MR. KANE: Mike, even if he's got sewer is he going to have to address anything with the wetlands back there on the property for building of the house?

MR. BABCOCK: No. Actually, that's one of the reasons he wants to put a house there, it's not much else he can do, I mean, that's his argument, not much else he can do with the property cause of the wetlands. The Town, they've talked to the Town to purchase that piece of property, that stretch that goes through the middle and the Town went back and made them an offer saying that they want \$50,000 for that strip that goes through there, so I assume he's saying that still doesn't do anything for him based on the layout of where the strip is doesn't add enough to the property to the wetlands to add this for \$50,000 to this lot, doesn't do anything for the lot.

MR. KANE: Right, I can see that. Okay. Gentlemen?

MR. REIS: Accept a motion?

MR. KANE: Yes.

August 11, 2003

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MR. REIS: Make a motion that we set up Highview Estates for a public hearing on the requested use variance of the Kings Road property.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. KANE	AYE

**ZONING BOARD OF APPEALS: TOWN OF NEW WINDSOR  
COUNTY OF ORANGE: STATE OF NEW YORK**

-----X

In the Matter of the Application for Variance of

HIGHVIEW ESTATES OF O.C., INC.

**AFFIDAVIT OF  
SERVICE  
BY MAIL**

#03-40

\_\_\_\_\_ X

STATE OF NEW YORK )

) SS:

COUNTY OF ORANGE )

MYRA L. MASON, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 67 Bethlehem Road, New Windsor, NY 12553.

That on the 20TH day of AUGUST, 2003, I compared the 12 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

Myra L. Mason  
Myra L. Mason, Secretary

20 day of August, 2003

[Signature]  
Notary Public

**JENNIFER MEAD  
Notary Public, State Of New York  
No. 01ME6050024  
Qualified In Orange County  
Commission Expires 10/30/ 2006**

**PUBLIC HEARING NOTICE**  
**ZONING BOARD OF APPEALS**  
**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

**Appeal No. 03-40**

**Request of HIGHVIEW ESTATES OF O.C., INC.**

**for a VARIANCE of the Zoning Local Law to Permit:**

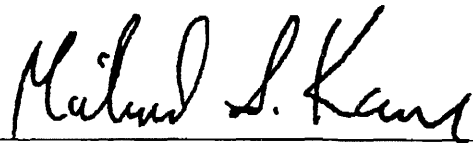
**Request for use variance to permit single family dwelling in an OLI zone.**

**being a USE VARIANCE for property located at:**

**KINGS DRIVE & RT. 207  
NEW WINDSOR, NY**

**known and designated as tax map Section 32      Block 1 Lot 23.2**

**PUBLIC HEARING will take place on SEPTEMBER 8<sup>TH</sup>, 2003  
at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York  
beginning at 7:30 P.M.**

A handwritten signature in black ink, appearing to read "Michael S. Kane", is written over a horizontal line.

**Michael Kane, Chairman**



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4631  
Fax: (845) 563-4693

## Assessor's Office

August 15, 2003

Highview Estates (Bob Biagini)  
P.O. Box 288  
Salisbury Mills, NY 12577

Re: 32-1-23.2 ZBA#03-40

Dear Mr. Biagini:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00.

Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO  
Sole Assessor

JTW/baw  
Attachments

CC: Myra Mason, ZBA

29-1-5.2

NYS DOT c/o Pat Snyder  
Bldg 4 Room 446  
1220 Washington Ave  
Albany, NY 12232

54-1-2.2

Fox Hill Associates  
108 Old Mountain Road  
Upper Nyack, NY 10960

31-3-9

Little Britain Presbyterian Church  
c/o Francis Coleman  
363 Lake Rd, New Windsor, NY 12553

54-1-1.11; 54-1-1.13

Westminster Church of Newburgh  
614 Station Road  
Rock Tavern, NY 12575

32-1-1

NYS DOT c/o Carlton Boorn  
Bldg 5, State Campus, Room 401  
Albany, NY 12232-0745

32-1-14.3

Maurizio & Catherine Liggieri  
93 Kings Road  
Rock Tavern, NY 12575

32-1-14.4

Donald Witfield  
2294 Rt 208  
Montgomery, NY 12549

32-1-18.1; 32-1-18.2

Jean Finnegan  
26 Richman Ave  
Newburgh, NY 12550

32-1-19

Carlos & Zoraida Mercado  
87 Kings Rd  
Rock Tavern, NY 12575

32-1-20.1

Frederick & Margaret Miles  
77 Kings Rd  
Rock Tavern, NY 12575

32-1-24

Parsonage Little Britain  
c/o Francis Coleman  
363 Lake Rd, New Windsor, NY 12553

54-1-2.1

Jason Vandermark  
131 Kings Rd  
Rock Tavern, NY 12575

**TOWN OF NEW WINDSOR**  
**REQUEST FOR NOTIFICATION LIST**

DATE: AUGUST 12, 2003 PROJECT NUMBER: ZBA# 03-40 P.B. # \_\_\_\_\_

APPLICANT NAME: HIGHVIEW ESTATES OF ORANGE COUNTY

PERSON TO NOTIFY TO PICK UP LIST:

HIGHVIEW ESTATES (BOB BIAGINI)  
P.O. BOX 288  
SALISBURY MILLS, NY 12577

TELEPHONE: 914-447-0235

TAX MAP NUMBER:	SEC. <u>32</u>	BLOCK <u>1</u>	LOT <u>23.2</u>
	SEC. _____	BLOCK _____	LOT _____
	SEC. _____	BLOCK _____	LOT _____

PROPERTY LOCATION: KINGS DRIVE & RT. 207  
NEW WINDSOR, NY 12553

THIS LIST IS BEING REQUESTED BY:

NEW WINDSOR PLANNING BOARD: \_\_\_\_\_

SITE PLAN OR SUBDIVISION: (ABUTTING AND ACROSS ANY STREET) \_\_\_\_\_

SPECIAL PERMIT ONLY: (ANYONE WITHIN 500 FEET) \_\_\_\_\_

AGRICULTURAL DISTRICT:  
(ANYONE WITHIN THE AG DISTRICT WHICH IS WITHIN 500'  
OF SITE PLAN OR SUBDIVISION PROJECT) \_\_\_\_\_

❖ ❖

NEW WINDSOR ZONING BOARD XXX

LIST WILL CONSIST OF ALL PROPERTY WITHIN 500 FEET OF PROJECT XXX

❖ ❖

AMOUNT OF DEPOSIT: 25.00 CHECK NUMBER: 4293

TOTAL CHARGES: \_\_\_\_\_



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4695

## ZONING BOARD OF APPEALS

August 20, 2003

Highview Estates of O.C., Inc.  
P.O. Box 288  
Salisbury Mills, NY 12577

ATTN: BOB BIAGINI

SUBJECT: REQUEST FOR VARIANCE #03-40

Dear Bob:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Sentinel Newspaper for publication. **PLEASE NOTE: The Sentinel will bill you directly for this add. This is not included in the escrow you posted upon application.**

Your Public Hearing before the Zoning Board of Appeals for your requested variance at:

Rt. 207 & Kings Drive  
New Windsor, NY

is scheduled for the September 8th, 2003 agenda.

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have any questions or concerns in this matter, please feel free to contact me.

Very truly yours,

---

Myra Mason, Secretary  
Zoning Board of Appeals

MLM:mlm



**TOWN OF NEW WINDSOR**  
**ZONING BOARD OF APPEALS**

**RECEIPT OF ESCROW RECEIVED:**

DATE RECEIVED: 08-01-03

FOR: 03-40 ESCROW

FROM: ALL MINE OF ORANGE CO., INC. (HIGHVIEW EST. OF O.C.)

P.O. BOX 457

WASHINGTONVILLE, NY 10992

CHECK NUMBER: 4292

AMOUNT: 500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

NAME

DATE

PLEASE RETURN SIGNED COPY TO MYRA FOR FILING

THANK YOU

**Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553  
(845) 563-4611**

**RECEIPT  
#767-2003**

**08/11/2003**

**All Mine Of Orange  
P O Box 457  
Washingtonville, NY 10992**

**Received \$ 150.00 for Zoning Board Fees, on 08/11/2003. Thank you for  
stopping by the Town Clerk's office.**

**As always, it is our pleasure to serve you.**

**Deborah Green  
Town Clerk**



RESULTS OF Z.B. MEETING OF: August 2003

PROJECT: Highview Estates of O.C. ZBA # 03-40  
P.B.#

**USE VARIANCE:**      **NEED: EAF** ☒      **PROXY** ☐

**LEAD AGENCY:** M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
**RIVERA** \_\_\_\_\_  
**MCDONALD** \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
**REIS** \_\_\_\_\_  
**MINUTA** \_\_\_\_\_  
**KANE** \_\_\_\_\_

**NEGATIVE DEC:** M)\_\_\_\_\_S)\_\_\_\_\_ VOTE: A\_\_\_\_\_N\_\_\_\_\_  
**RIVERA** \_\_\_\_\_  
**MCDONALD** \_\_\_\_\_ **CARRIED:** Y\_\_\_\_\_N\_\_\_\_\_  
**REIS** \_\_\_\_\_  
**MINUTA** \_\_\_\_\_  
**KANE** \_\_\_\_\_

PUBLIC HEARING: M RS S) RV VOTE: A 3 N 0  
 RIVERA A  
~~MCDONALD~~ CARRIED: Y ✓ N      
 REIS A  
~~MCDONALD~~  
 KANE A

**APPROVED:** M)\_\_\_\_S)\_\_\_\_ VOTE: A\_\_\_\_ N\_\_\_\_  
 RIVERA \_\_\_\_\_  
 MCDONALD \_\_\_\_\_ CARRIED: Y\_\_\_\_N\_\_\_\_  
 REIS \_\_\_\_\_  
 MINUTA \_\_\_\_\_  
 KANE \_\_\_\_\_

**ALL VARIANCES - PRELIMINARY APPEARANCE:**

**SCHEDULE PUBLIC HEARING:** M)\_\_\_\_ S)\_\_\_\_ VOTE: A\_\_\_\_ N\_\_\_\_  
RIVERA \_\_\_\_\_  
~~MCDONALD~~ \_\_\_\_\_  
REIS \_\_\_\_\_  
~~MINOTA~~ \_\_\_\_\_  
KANE \_\_\_\_\_

CARRIED: Y\_\_\_\_\_ N\_\_\_\_\_

**PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES**

**VARIANCE APPROVED:** M)\_\_\_ S)\_\_\_ VOTE: A\_\_\_ N\_\_\_.

**RIVERA** \_\_\_\_\_  
**MC DONALD** \_\_\_\_\_  
**REIS** \_\_\_\_\_  
**MINUTA** \_\_\_\_\_  
**KANE** \_\_\_\_\_

**CARRIED: Y\_\_\_\_\_ N\_\_\_\_\_.**

[illegible]



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4695

## ZONING BOARD OF APPEALS

August 6, 2003

Highview Estates of O.C.  
P.O. Box 286  
Salisbury Mills, NY 12577

ATTENTION: BOB BIAGINI

SUBJECT: REQUEST FOR VARIANCE #03-40

Dear Bob:

This letter is to inform you that you have been placed on the August 11th, 2003 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

Kings Drive & Rt. 207  
New Windsor, NY

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have a problem with this time and/or date, please contact me at the above number and we will reschedule your appearance. If you have any further questions, please feel free to contact me.

Very truly yours,

---

Myra Mason, Secretary  
Zoning Board of Appeals

MLM:mlm

4292

ALL MINE OF ORANGE, INC.

P.O. BOX 457 914-474-0235  
WASHINGTONVILLE, NY 10992

DATE

7/1/05

50-235 620  
219PAY  
TO THE  
ORDER OFTOWN OF NEW WINDSOR  
Five Hundred ONLY

\$ 500.00

DOLLARS

Security Features  
Visible  
When TiltedTHE  
BANK OF  
NEW  
YORK7 West Main Street  
Washingtonville, NY 10992

FOR

Kings DR.

⑈004292⑈ ⑆021902352⑆ ⑈6801426423⑈

ZAA #03-40 Application Fee

ALL MINE OF ORANGE, INC.

P.O. BOX 457 914-474-0235  
WASHINGTONVILLE, NY 10992

4291

PAY  
TO THE  
ORDER OFTOWN OF NEW WINDSOR  
ONE HUNDRED ONLY

DATE

7/1/03

50-235 620  
219

\$ 150.00

DOLLARS

Security Features  
Visible  
When TiltedTHE  
BANK OF  
NEW  
YORK7 West Main Street  
Washingtonville, NY 10992

FOR

Kings DR.

⑈004291⑈ ⑆021902352⑆ ⑈6801426423⑈



TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS



APPLICATION FOR VARIANCE

7/8/03

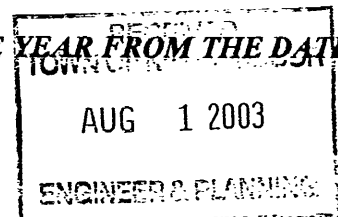
Date

Application Type: Use Variance ☒ Area Variance ☐  
Sign Variance ☐ Interpretation ☐

- I. **Owner Information:** Phone Number: (914) 447-0235  
Highview Estates of Orange Fax Number: (845) 496-0667  
County (Name) P.O. Box 286 SALISBURY MILLS NY 12577  
(Address)
- II. **Purchaser or Lessee:** Phone Number: (914) 447-0235  
Highview Estates Fax Number: ( )  
(Name) P.O. Box 286 SALISBURY MILLS NY 12577  
(Address)
- III. **Attorney:** Phone Number: (845) 928-9444  
Steve Reincke Fax Number: ( )  
(Name) P.O. Box 244 CENTRAL VALLEY NY 10917  
(Address)
- IV. **Contractor/Engineer/Architect/Surveyor/:** Phone Number (845) 361-4700  
Daniel P Yonosh Fax Number: (845) 361-4722  
(Name) 2194 NYS Rt 302 CIRCLEVILLE NY 10919  
(Address)
- V. **Property Information:**  
Zone: OLI Property Address in Question: KINGS DRIVE + Rt 207  
Lot Size: 1.66 Acres Tax Map Number: Section 32A Block 1 Lot 27.2  
a. What other zones lie within 500 feet? R-1  
b. Is pending sale or lease subject to ZBA approval of this Application? NO  
c. When was property purchased by present owner? NO  
d. Has property been subdivided previously? NO If so, When: NO  
e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? NO  
f. Is there any outside storage at the property now or is any proposed? NO

\*\*\*\*PLEASE NOTE:\*\*\*\*\*

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.



03-40

**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE - continued**

**VI. USE VARIANCE:**

Use Variance requested from New Windsor Zoning Local Law,

Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

Describe proposal: Request to build 1 single fam.  
Dwelling in A-01 Zone

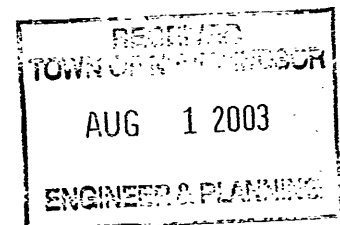
- VII. The legal standard for a "Use Variance" is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the Use Variance is granted. Also state any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PLEASE NOTE:**

**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.**

03-40



**XII. ADDITIONAL COMMENTS:**

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)
- 
- 
- 

**XIII. ATTACHMENTS REQUIRED:**

- ☐ Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- ☐ Copy of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☐ Copies of signs with dimensions and location.
- ☐ Three checks: (each payable to the TOWN OF NEW WINDSOR)
- ☐ One in the amount of \$ 300.00 or 500.00 , (escrow)
- ☐ One in the amount of \$ 50.00 or 150.00 , (application fee)
- ☐ One in the amount of \$ 25.00 , (Public Hearing List Deposit)
- ☐ Photographs of existing premises from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT FOUR(4) SETS OF THE PHOTOS.)

**XIV. AFFIDAVIT.**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this:

8<sup>th</sup> day of July 2003  
*Curren & Confel*  
**CHERYL L. CANFIELD**  
Notary Public, State of New York  
Qualified in Orange County  
#01CA6073319  
~~Commission Expires April 22, 2006~~  
Signature and Stamp of Notary

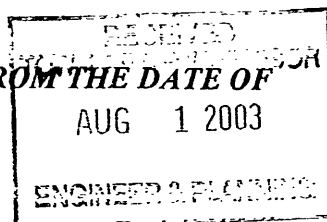
*Robert Blaginski*  
Owner's Signature (Notarized)  
*Robert Blaginski*  
Owner's Name (Please Print)

Applicant's Signature (If not Owner)

PLEASE NOTE:

**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.**

03-40





PROJECT I.D. NUMBER

617.21

SEQR

## Appendix C

State Environmental Quality Review

## SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

## PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR	2. PROJECT NAME <i>Highview Estates Single Fam Home</i>
3. PROJECT LOCATION: Municipality <i>High Hill Rd. New Windsor</i> County <i>Orange</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:	
7. AMOUNT OF LAND AFFECTED: Initially <i>1.66</i> acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <i>Request Permission To build a single fam dwelling in A-01 Zone</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: <i>single Family Homes are surrounding prop.</i>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>Highview Estates of OC.</i>	Date: <i>7/8/03</i>
Signature: <i>Theresa Bigner</i>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

OVER

03-40

AUG 1 2003

ENGINEER &amp; PLANNING

**PART II--ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

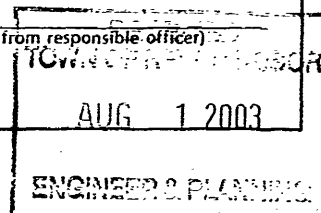
A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF.	
<input type="checkbox"/> Yes	<input type="checkbox"/> No
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.	
<input type="checkbox"/> Yes	<input type="checkbox"/> No
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)	
C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:	
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:	
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:	
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:	
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:	
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:	
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?	
<input type="checkbox"/> Yes	<input type="checkbox"/> No If Yes, explain briefly

**PART III--DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

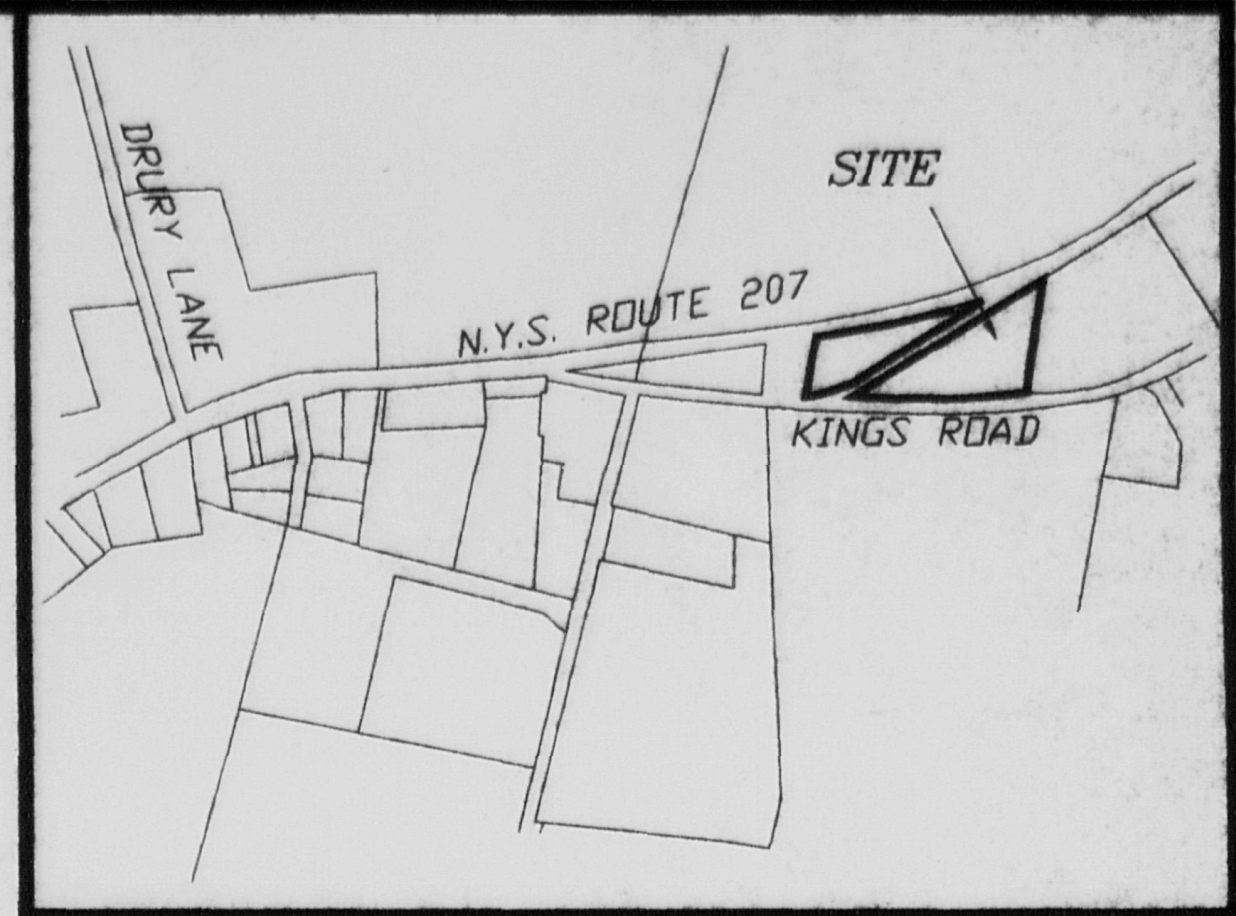
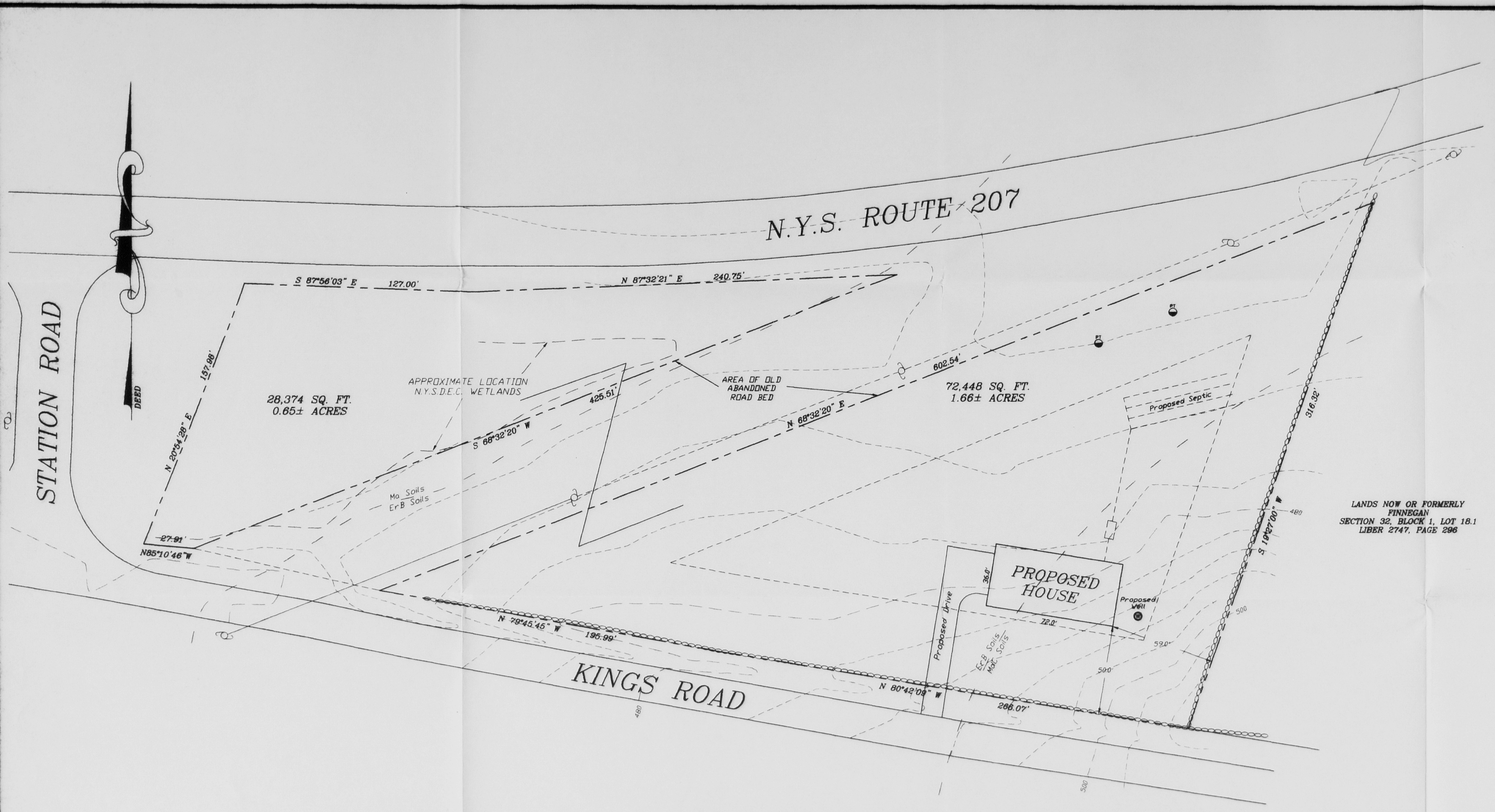
**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide on attachments as necessary, the reasons supporting this determination:	
_____ Name of Lead Agency	
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (If different from responsible officer)
_____ Date	

203-40





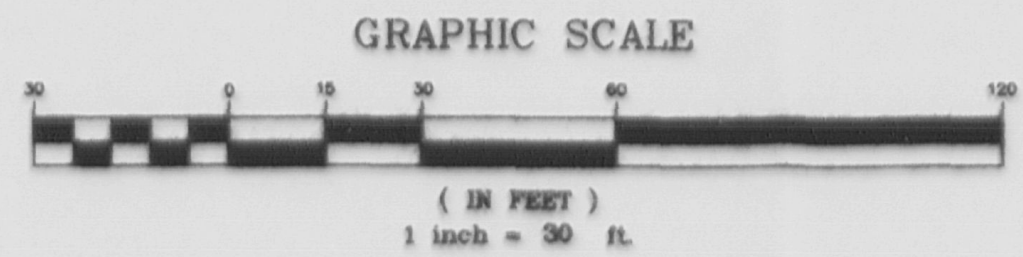


LOCATION MAP

CURRENT ZONING REGULATIONS	PROPOSED ZONING REGULATIONS
ZONE: OLI - OFFICE AND LIGHT INDUSTRY	ZONE: R-1 - RURAL RESIDENTIAL
PERMITTED USE PROFESSIONAL OFFICE	PERMITTED USE SINGLE FAMILY HOMES
MINIMUM REQUIREMENTS: LOT AREA.....10,000 sq. ft. LOT WIDTH.....100 FT. FRONT YARD.....40 FT. ONE SIDE YARD.....15 FT. BOTH SIDE YARDS.....35 FT. REAR YARD.....15 FT. STREET FRONTAGE.....N/A LIVABLE FLOOR AREA.....1,000 sq.ft	MINIMUM REQUIREMENTS: LOT AREA.....80,000 sq. ft. LOT WIDTH.....175 FT. FRONT YARD.....40 FT. ONE SIDE YARD.....40 FT. BOTH SIDE YARDS.....80 FT. REAR YARD.....50 FT. STREET FRONTAGE.....70 FT. LIVABLE FLOOR AREA.....1,200 sq.ft
MAXIMUM BUILDING HEIGHT.....35 FT. FLOOR AREA RATIO... 1.0 DEVELOPMENT COVERAGE... N/A	MAXIMUM BUILDING HEIGHT.....35 FT. DEVELOPMENT COVERAGE... 20 %

SURVEY NOTES:

- CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS. SAID CERTIFICATIONS SHALL RUN ONLY TO THOSE NAMED INDIVIDUALS AND/OR INSTITUTIONS FOR WHOM THE SURVEY IS PREPARED. CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INDIVIDUALS, INSTITUTIONS, THEIR SUCCESSORS AND/OR ASSIGNS OR SUBSEQUENT OWNERS.
- UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7809, SUBDIVISION 2 OF THE N.Y. STATE EDUCATION LAW. ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S INKED SEAL OR HIS ENDORSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
- SUBJECT TO AN UP TO DATE ABSTRACT OF TITLE.  
SUBJECT TO UNDERGROUND UTILITIES AND EASEMENTS NOT RECORDED AND/OR NOT VISIBLE AT TIME OF FIELD SURVEY.



**TAX MAP DESIGNATION**  
SECTION 32, BLOCK 1, LOT 23.2

**OWNER/DEVELOPER**  
HIGHVIEW ESTATES OF ORANGE COUNTY  
P.O. BOX 286  
SALISBURY MILLS, NEW YORK 12577

**DEED REFERENCE**  
LIBER 2008 PAGE 430

**AREA**  
100,822 SQ. FT.  
2.31 ± ACRES

LANDS NOW OR FORMERLY  
FINNEGAN  
SECTION 32, BLOCK 1, LOT 18.1  
LIBER 2747, PAGE 296

MAY 6, 2003  
CERTIFY TO:  
HIGHVIEW ESTATES OF ORANGE COUNTY

TO BE A TRUE SURVEY PERFORMED IN THE FIELD  
ON JUNE 28, 2003, AND THAT IT IS TO THE BEST  
OF MY KNOWLEDGE AND BELIEF CORRECT.

DANIEL P. YANOSH L.L.S.  
N.Y.S. LIC. # 49581

PLANNING BOARD APPROVAL BLOCK

SHEET 1 OF 2 IS INVALID AND INCOMPLETE,  
AND CANNOT BE FILED WITHOUT SHEET 2 OF 2

<b>VICTOR H. ERIKSON N.Y.S. P.E., L.S.</b> 2866 N.Y.S. ROUTE 302 MIDDLETOWN, NEW YORK 10941 PHONE #: (845) 361 - 6481 FAX #: (845) 361 - 5229			
REVISED 5-6-03 PROPOSED HOUSE			
<b>DANIEL P. YANOSH N.Y.S. L.S.</b> 2194 N.Y.S. ROUTE 302 P.O. BOX 320 CIRCLEVILLE, NEW YORK 10819 PHONE #: (845) 361 - 4700 FAX #: (845) 361 - 4722			
<b>SURVEY - SITE PLAN</b>			
LANDS OF: <b>HIGHVIEW ESTATES OF ORANGE COUNTY</b> KINGS ROAD & N.Y.S. ROUTE 207 TOWN OF NEW WINDSOR ORANGE COUNTY, NEW YORK			
DRAWN BY: D.P.Y. Sr.	CHECKED BY: D.P.Y. Jr.	SCALE: 1" = 30'	DATE: 9-24-2001
N.Y.S. P.E. LIC. #20686		JOB#: 2001-07	